

AMENDED IN ASSEMBLY MARCH 30, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2019

**Introduced by Assembly Member ~~Kuehl~~ Members Kuehl,
Aroner, Lempert, and Ortiz**
(Coauthors: Senators Alpert, Lee, Solis, and Watson)

February 18, 1998

An act to add Chapter 5.9 (commencing with Section 13399.25) to Division 7 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2019, as amended, Kuehl. Storm water discharge.

Under existing law, point source discharges of pollutants, including storm water discharges, to surface waters require a waste discharge permit under the national pollutant discharge elimination system (NPDES). Under existing law, the State Water Resources Control Board and the California regional water quality control boards generally prescribe waste discharge requirements in connection with the discharge of waste that could affect the quality of the waters of the state.

This bill would require the regional boards, or the state board on behalf of the regional boards, on or before February 1 of each year, to prepare, and make available to the public, a report that identifies any discharger that is subject to permitting requirements for storm water that has not filed a notice of intent to comply with general permit requirements prescribed in accordance with the federal Clean Water Act or

applied for individual waste discharge requirements. The bill would require the staff of each regional board, on or before March 1 of each year, to notify each discharger described in that report with regard to its noncompliance and the penalties therefor. The bill would require the executive officer of each regional board to send a second notice to that discharger, as prescribed. The bill would require the regional board, on or before May 1 of the year in which that second notice is sent, to impose prescribed penalties on the discharger in the event of continuing noncompliance.

The bill would require the regional boards, not later than 30 days from the date on which any required report *or certification* relating to storm water discharge is due, to conduct a review of the reports *or certifications* submitted and to identify the dischargers that have failed to submit that report *or certification*. The bill would require the staff of the each regional board, not later than 30 days from the date of the completion of a review, to notify each discharger that is identified in the review with regard to its noncompliance and the penalties therefor. The bill would require the executive officer of each regional board to send a second notice to that discharger, as prescribed. The bill would require the regional board to impose prescribed penalties on, *and recover specified costs from*, the discharger, if the discharger fails to submit the required report *or certification* within 30 days from the date on which that second notice is sent.

The bill would require that the money generated from the imposition of penalties—~~imposed~~, *and the recovery of costs*, pursuant to the bill's provisions to be deposited in the Storm Water Discharge Subaccount, which the bill would create in the State Water Pollution Cleanup and Abatement Account in the State Water Quality Control Fund. The money in the subaccount would be available, upon appropriation by the Legislature, to the regional boards for the purposes of carrying out storm water pollution prevention programs.

The bill would require the state board, on or before April 1, 2000, and each April 1 thereafter, to prepare and submit a report to the Legislature summarizing the enforcement actions undertaken in the previous calendar year with regard



to storm water discharge and the results of those actions. The bill would make legislative findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and
2 declares all of the following:

3 (a) Polluted storm water runoff is the leading cause of
4 contamination of the state's lakes, rivers, and coastal
5 waters.

6 (b) Noncompliance with existing state storm water
7 permitting requirements under industrial, construction,
8 and municipal programs is widespread, and prevents the
9 state from attaining its water quality objectives.

10 (c) There is inconsistent and unpredictable
11 enforcement of existing state storm water requirements,
12 including requirements relating to permits, the
13 submission of annual reports, and polluted storm water
14 monitoring.

15 (d) It is necessary to establish a state storm water
16 enforcement scheme that ensures fair, predictable, and
17 consistent state enforcement of storm water
18 requirements by the State Water Resources Control
19 Board and the California regional water quality control
20 boards, while ensuring that information is available to
21 help protect the environment from the harmful effects of
22 polluted storm water.

23 SEC. 2. Chapter 5.9 (commencing with Section
24 13399.25) is added to Division 7, to read:

25

26 CHAPTER 5.9. THE STORM WATER ENFORCEMENT ACT OF
27 1998

28

29 13399.25. This chapter supplements, and does not
30 supplant, other laws relating to the discharge of storm
31 water.

32 13399.27. On or before February 1 of each year, the
33 regional boards, or the state board on behalf of the

1 regional boards, shall prepare, and make available to the
2 public, a report that identifies any discharger that is
3 subject to permitting requirements for storm water that
4 fails to do either of the following:

5 (a) File, with the appropriate fee, a notice of intent to
6 comply with statewide or regional general permit
7 requirements prescribed in accordance with Section
8 1342(p) of Title 33 of the United States Code.

9 (b) Apply for individual waste discharge
10 requirements.

11 13399.29. (a) On or before March 1 of each year, the
12 staff of the regional board shall notify each discharger
13 described in the report prepared pursuant to Section
14 13399.27 with regard to its noncompliance and the
15 penalties therefor.

16 (b) If a discharger to which a notice is sent pursuant
17 to subdivision (a) fails to undertake action pursuant to
18 subdivision (a) or (b) of Section 13399.27 on or before
19 April 1 of the year in which the notice is sent, the
20 executive officer of the regional board shall send a second
21 notice to that discharger.

22 (c) If a discharger to which a notice is sent pursuant to
23 subdivision (b) fails to undertake action pursuant to
24 subdivision (a) or (b) of Section 13399.27 on or before
25 May 1 of the year in which the notice is sent, the regional
26 board shall impose penalties in accordance with Section
27 13399.33.

28 13399.31. (a) Not later than 30 days from the date on
29 which any report ~~required in accordance with~~ or
30 *certification required by waste discharge requirements*
31 *adopted pursuant to* Section 1342(p) of Title 33 of the
32 United States Code is due, the staff of the regional board
33 shall conduct a review of the reports *or certifications*
34 submitted and identify the dischargers that have failed to
35 submit that report *or certification*.

36 (b) Not later than 30 days from the date of the
37 completion of a review required by subdivision (a), the
38 staff of the regional board shall notify each discharger that
39 is identified pursuant to subdivision (a) with regard to its
40 noncompliance and the penalties therefor.

1 (c) If a discharger to which a notice is sent pursuant to
2 subdivision (b) fails to submit the required report *or*
3 *certification* to the regional board within 30 days from the
4 date on which that notice is sent, the executive officer of
5 the regional board shall send a second notice to that
6 discharger.

7 (d) If a discharger to which a notice is sent pursuant
8 to subdivision (c) fails to submit the required report *or*
9 *certification* to the regional board within 30 days from the
10 date on which that notice is sent, the regional board shall
11 impose the penalties described in Section 13399.33.

12 13399.33. Except as provided in Section 13399.35, the
13 regional board shall do all of the following with regard to
14 a discharger that is subject to the requirements
15 prescribed in accordance with Section 1342(p) of Title 33
16 of the United States Code.

17 (a) Assess a civil administrative penalty of five
18 hundred dollars (\$500) per day for each day the
19 discharger remains in violation of permitting
20 requirements *described in Section 13399.27*.

21 (b) Assess a civil administrative penalty of two
22 hundred fifty dollars (\$250) per day for each day the
23 discharger remains in violation of reporting
24 ~~requirements~~ *or certification requirements described in*
25 *Section 13399.31*.

26 (c) Recover from the discharger the costs incurred by
27 the regional board with regard to that discharger.

28 13399.35. (a) The regional board may allow a
29 discharger to reduce the penalties described in
30 subdivisions (a) and (b) of Section 13399.33 by up to 50
31 percent by undertaking a supplemental environmental
32 project *in accordance with the enforcement policy of the*
33 *state board and any applicable guidance document*.

34 (b) For the purposes of this section, a “supplemental
35 environmental project” means an environmentally
36 beneficial project that a discharger agrees to undertake,
37 with the approval of the regional board, for the purpose
38 of complying with this division.

39 13399.37. (a) The money generated from the
40 imposition of penalties ~~—under this chapter and cost~~

1 *recovery pursuant to Section 13399.33* shall be deposited
2 into the Storm Water Discharge Subaccount, which is
3 hereby created in the State Water Pollution Cleanup and
4 Abatement Account in the State Water Quality Control
5 Fund.

6 (b) The money in the subaccount shall be available,
7 upon appropriation by the Legislature, to the regional
8 boards for the purpose of carrying out storm water
9 pollution prevention programs.

10 13399.39. On or before April 1, 2000, and each April 1
11 thereafter, the state board shall prepare and submit a
12 report to the Legislature summarizing the enforcement
13 actions undertaken in the previous calendar year under
14 this division with regard to storm water discharge and the
15 results of those actions. The report shall include an
16 assessment with regard to the extent of compliance with
17 requirements relating to the discharge of storm water in
18 this state.

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20 CORRECTIONS

21 **Heading — Lines 2 and 3.**

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